

October 2012

Chicken Little in the Voting Booth

The Non-Existent Problem of Non-Citizen “Voter Fraud”

A wave of restrictive voting laws is sweeping the nation. The [Brennan Center for Justice](#) at New York University School of Law counts “at least 180 restrictive bills introduced since the beginning of 2011 in 41 states.” Bills requiring voters “to show photo identification in order to vote” were signed into law in Alabama, Kansas, Rhode Island, South Carolina, Tennessee, Texas, Wisconsin, and Pennsylvania. Adding insult to injury, Alabama, Kansas, and Tennessee went a step further and required voters to present proof of U.S. citizenship in order to vote.¹ In addition, Florida, Colorado, and New Mexico embarked upon ultimately fruitless “[purges](#)” of their voter rolls for the ostensible purpose of sweeping away anyone who might be a non-U.S. citizen.²

All of these actions have been undertaken in the name of preventing voter fraud, particularly illegal voting by non-citizens. Proponents of harsh voter laws often assert, without a shred of hard evidence, that hordes of immigrants are swaying election results by wheedling their way into the voting booth. However, repeated investigations over the years have found no indication that systematic vote fraud by non-citizens is anything other than the product of overactive imaginations.

Fighting Phantoms: No Evidence of Widespread or Systematic Vote Fraud by Non-Citizens

- Election experts tend to agree that modern-day voter fraud is a very rare occurrence in the United States, primarily because it is so irrational. The potential payoff (a vote) is not worth the risk of jail time, thousands of dollars in fines, and—in the case of non-citizens—possibly deportation.
- The Brennan Center succinctly summarizes this point in a [2006 fact sheet](#): “Each act of voter fraud risks five years in prison and a \$10,000 fine—but yields at most one incremental vote. The single vote is simply not worth the price. Because voter fraud is essentially irrational, it is not surprising that no credible evidence suggests a voter fraud epidemic.”³
- Researcher Lorraine Minnite writes in a [2010 book](#) that “there is good evidence to support the conclusion (1) that voters rarely fraudulently register or vote; (2) that protections against voter fraud are sufficiently provided for in federal and state law; and (3) that from a cost-benefit perspective this makes it irrational for voters to cast fraudulent ballots.”⁴

- In 2012, News21 [analyzed](#) 2,068 alleged election-fraud cases since 2000 and found “that while fraud has occurred, the rate is infinitesimal, and in-person voter impersonation on Election Day, which prompted 37 state legislatures to enact or consider tough voter ID laws, is virtually non-existent.” Specifically, News21 “turned up 10 cases of voter impersonation. With 146 million registered voters in the United States during that time, those 10 cases represent one out of about every 15 million prospective voters.”⁵
- An [October 18, 2010, story](#) in the *National Journal* points out that “a five-year investigation by the Bush Justice Department...turned up virtually no evidence of widespread voter fraud.”⁶ Nevertheless, anti-immigrant activists are fond of pretending that fraudulent voting by non-citizens is a national epidemic.⁷
- According to a [2007 report](#) written by Minnite for Project Vote, “government records show that only 24 people were convicted of or pleaded guilty to illegal voting between 2002 and 2005, an average of eight people a year. This includes 19 people who were ineligible to vote, five because they were still under state supervision for felony convictions, and 14 who were not U.S. citizens; and five people who voted twice in the same election, once in Kansas and again in Missouri.”⁸
- Similarly, a [2005 report](#) by the Coalition on Homelessness and Housing in Ohio and the League of Women Voters of Ohio found that a grand total of four votes cast in the state’s 2002 and 2004 general elections were in some way “fraudulent,” amounting to .00000044% of all votes cast.⁹
- As the [Brennan Center](#) notes, one is more likely to be struck by lightning than to come across an actual case of voter fraud.¹⁰

Instances of Noncitizens Registering to Vote are Also Exceedingly Rare

- There is no evidence that significant numbers of noncitizens are registering to vote. Nevertheless, in recent months several states have asked the federal government for access to immigration data in order to determine whether non-citizens are on the voter registration rolls. Specifically, the states have sought access to the Systematic Alien Verification for Entitlements ([SAVE](#)) program, which is designed to verify eligibility for benefits or services at the time an application is initially filed. SAVE is not a comprehensive, up-to-date list of who is a citizen and who is not. Not surprisingly, these attempts by states to use SAVE to find noncitizens on the voter rolls have produced few results.
- The Associated Press [reported](#) in September 2012 that efforts by state election officials in Colorado and Florida to turn up cases of noncitizens illegally registered to vote have yielded very few results. In Colorado, an initial list of 11,805 suspected noncitizens on the voter rolls has shrunk to 141, which amounts to .004 percent of the state’s 3.5 million voters. Likewise, in Florida, a list of 180,000 suspected noncitizens on the rolls has shrunk to 207, which accounts for .001 percent of the state’s 11.4 million registered voters. It turns out that some of the individuals in question did not even know they were registered to vote, or were actually U.S. citizens legally entitled to vote.¹¹

- The *New York Times* [notes](#) that, in 2011, “New Mexico’s wasteful investigation of 64,000 ‘suspicious’ voter registrations found only 19 cases of voters who may have been noncitizens.”¹²

Sore Losers, Mistakes, and Mischief Behind Voter Fraud Charges

- [Project Vote](#) found that “most voter fraud allegations turn out to be something other than fraud. A review of news stories over a recent two year period found that reports of voter fraud were most often limited to local races and individual acts and fell into three categories: unsubstantiated or false claims by the loser of a close race, mischief, and administrative or voter error.”¹³ The report concludes that “when we probe most allegations of voter fraud we find errors, incompetence and partisanship.”¹⁴
- Many accusations of voter fraud by non-citizens stem from database errors. The [Brennan Center](#) notes that “government citizenship records—as the government itself acknowledges—are...replete with errors or incomplete information. Naturalization documentation may find its way into the government files slowly, or not at all, leaving outdated or inaccurate information for investigators looking for fraud. And this, in turn, leads to flawed accusations that noncitizens have been voting, when the voters in question have in fact become fully naturalized American citizens.”¹⁵
- The [Brennan Center](#) concludes that “allegations of widespread voter fraud...often prove greatly exaggerated. It is easy to grab headlines with a lurid claim (‘Tens of thousands may be voting illegally!’); the follow-up—when any exists—is not usually deemed newsworthy. Yet on closer examination, many of the claims of voter fraud amount to a great deal of smoke without much fire. The allegations simply do not pan out.”¹⁶

Allegations Put Minorities, Immigrants, and the Poor in the Cross-Hairs

- According to the [Brennan Center](#), “claims of voter fraud are frequently used to justify policies that do not solve the alleged wrongs, but that could well disenfranchise legitimate voters. Overly restrictive identification requirements for voters at the polls—which address a sort of voter fraud more rare than death by lightning—is only the most prominent example.”¹⁷
- Minnite [writes](#) that allegations of voter fraud “shrewdly veil a political strategy for winning elections by tamping down turnout among socially subordinate groups” such as racial minorities, immigrants, and the poor.¹⁸ She goes on to say that “restrictive voter identification rules that cause people to lose their votes also undermine the integrity of the electoral process. The point is there is no integrity without access. We need to simplify our electoral system, not encumber it with more tangled rules justified by myth.”¹⁹

Endnotes

¹ Brennan Center for Justice, New York University School of Law, “[2012 Summary of Voting Law Changes](#)” (New York, NY: September 7, 2012).

² *New York Times*, “[Florida’s Discriminatory Voter Purge](#),” May 31, 2012.

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- ³ Brennan Center for Justice, New York University School of Law, [*The Truth About "Voter Fraud"*](#) (New York, NY: September 2006), p. 1.
- ⁴ Lorraine C. Minnite, [*The Myth of Voter Fraud*](#) (Ithaca, NY: Cornell University Press, 2010), p. 129.
- ⁵ Natasha Khan and Corbin Carson, "[Comprehensive Database of U.S. Voter Fraud Uncovers No Evidence That Photo ID Is Needed](#)," News21, August 12, 2012.
- ⁶ Eliza Newlin Carney, "[The Risk of Voter Suppression: Are election fraud watchdogs crossing the line?](#)" *National Journal*, October 18, 2010.
- ⁷ See, for instance, Hans A. von Spakovsky, *The Threat of Non-Citizen Voting*, Legal Memorandum No. 28 (Washington, DC: The Heritage Foundation, July 10, 2008).
- ⁸ Lorraine C. Minnite, [*The Politics of Voter Fraud*](#) (Washington, DC: Project Vote, March 2007), p. 8.
- ⁹ The Coalition on Homelessness and Housing in Ohio and the League of Women Voters of Ohio, [*Let the People Vote: A Joint Report on Election Reform Activities in Ohio*](#) (Columbus, OH: June 14, 2005), p. 1.
- ¹⁰ Justin Levitt, [*The Truth About Voter Fraud*](#) (New York, NY: Brennan Center for Justice, New York University School of Law, November 2007), p. 4.
- ¹¹ Ivan Moreno, "[Voter Purges Turn Up Little Evidence Of Fraud Despite Republican Insistence](#)," Associated Press, September 24, 2012.
- ¹² *New York Times*, "[Florida's Discriminatory Voter Purge](#)," May 31, 2012.
- ¹³ Lorraine C. Minnite, [*The Politics of Voter Fraud*](#) (Washington, DC: Project Vote, March 2007), p. 3.
- ¹⁴ *Ibid.*, p. 5.
- ¹⁵ Justin Levitt, [*The Truth About Voter Fraud*](#) (New York, NY: Brennan Center for Justice, New York University School of Law, November 2007), p. 18.
- ¹⁶ *Ibid.*, p. 3.
- ¹⁷ *Ibid.*
- ¹⁸ Lorraine C. Minnite, [*The Myth of Voter Fraud*](#) (Ithaca, NY: Cornell University Press, 2010), p. 89.
- ¹⁹ *Ibid.*, p. 158.